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**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH**

**COMPLAINANT:**

UTAH INSURANCE DEPARTMENT

**RESPONDENT:**

CLARANCE JOE SUSAETA  
5134 N. East Meadows Drive  
Park City, UT 84098  
License No. 29041

**STIPULATION  
&  
ORDER**

Docket No. 2003-105-LF

Enf. Case No. 638

**STIPULATION**

1. Respondent, Clarence Joe Susaeta, is a licensed insurance agent in the State of Utah, holding License No. 29041.
2. Respondent stipulates with the Complainant, Utah Insurance Department, as follows:
  - a. If a hearing were held, witnesses called by the Complainant could offer and introduce evidence that would support the Findings of Fact herein;
  - b. Respondent has denied the allegations in the Complaint. For purposes of this proceeding and its resolution, Respondent neither admits nor denies the Findings of Fact and Conclusions made therefrom;
  - c. Respondent stipulates to the summary entry of the Order herein which shall be

in lieu of other administrative proceedings by Complainant in this matter; and

d. Respondent and Complainant have negotiated the terms of the Order entered herein and Respondent agrees to its entry and further agrees to be bound by all its terms.

3. Respondent is aware of his right to a hearing at which he may be represented by counsel, present evidence and cross-examine witnesses. Respondent has irrevocably waived his right to such hearing and to any appeal related thereto.

4. Respondent admits the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

5. Respondent is acting herein free from any duress or coercion of any kind or nature, having been advised fully as to his rights set forth herein.

6. Respondent acknowledges that the issuance of this Order by the Commissioner is solely for the purpose of disposition of the matter entitled herein.

DATED this 7th day of mar, 2004.

  
CLARENCE JOE SUSAETA

  
UTAH INSURANCE DEPARTMENT  
M. Gale Lemmon, Assistant Attorney General

Based upon the foregoing Stipulation and information in the file, the Presiding Officer makes the following Findings of Fact:

### **FINDINGS OF FACT**

1. Ms. Virginia Davis, a senior citizen, now a resident of Washington County, Utah, was a client of Respondent and purchased over a period of time not fewer than eleven life and annuity policies.

2. During the period from about September 13, 1991, through October 29, 1996, Respondent received funds from Ms. Davis intended as premiums for her policies totaling not less than \$46,000.00. Respondent deposited those funds into his own account and converted them to his own purposes. After having use of these funds for a period averaging not less than three years, Respondent repaid those funds to Ms. Davis by making payments on her policies.

3. On or about September 1991, Respondent met with Ms. Davis received from her the amount of \$30,000.00 for purposes of investing in an initial public offering of PHX Las Tech at \$1.00 per share. Respondent presented her with a statement from National Securities Corporation evidencing the purchase of 60,000 shares of in an initial public offering, totaling \$60,000.00 to evidence her investment along with a like investment by Respondent. A hand written note on the bottom of the statement signed by the Respondent stated: "Virginia, Keep this statement for purposes of record verification on our stock investment." No such stock exists or ever existed and Respondent created the false statement presented to Ms. Davis.

4. Respondent prepared a number of statements of the accounts of Ms. Davis for her. Said statements were false or misleading in that they showed two policies to be in force that had been terminated previously and the account balances did not match the actual balances existing at the time. When questioned by Ms. Davis regarding the balances shown on the statements, the Respondent gave false or misleading information to Ms. Davis as to why the balances he

presented did not match the actual balances existing at the time.

5. On or about June 13, 2002, the National Association of Securities Dealers issued an order against the Respondent barring him from "association with any NASD member in any capacity...." Respondent failed to immediately report to the department the NASD action against him.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

### **CONCLUSIONS OF LAW**

1. Respondent's actions in dealing with a senior citizen while licensed as an insurance agent by the State of Utah demonstrate that Respondent failed to meet the required character requirements to hold an insurance agent's license under Utah Code Ann. § 31A-23a-107(2).

2. In failing to immediately notify the department of the action taken against him by the NASD, Respondent violated Utah Admin. Code Rule R590-133-8.A(2).

Based upon the foregoing Stipulation, Findings of Fact and Conclusions of Law, the Presiding Officer herewith enters the following Order:

### **ORDER**

IT IS HEREBY ORDERED:

1. Respondent's insurance agent's license is suspended for a period of 90 days beginning on the date of this Order.

2. Respondent is assessed an administrative forfeiture in the amount of \$2,500.00 to be paid prior to the termination of the suspension of his license.

3. Respondent's insurance license is placed on probation for a period of 24 months beginning with the termination of the suspension ordered herein. The terms of probation are:

- a. Respondent shall pay the forfeiture assessed herein in a timely manner.
- b. Respondent shall have no violations of the Utah Insurance Code or Rules of any order of the commissioner.
- c. During the period of probation, Respondent shall act as an insurance agent only as an employee of an agency approved in writing by the commissioner.
- d. During the period of probation, Respondent shall be supervised in his activities as an insurance agent by a licensed agent approved by the commissioner and who agrees in writing to exercise such supervision.
- e. Respondent shall successfully complete a college-level course in ethics and submit evidence of said completion during the period of probation.

#### **NOTIFICATION**

Respondent is hereby notified that failure to abide by the terms of this Order may subject him to further penalties, including additional forfeitures of up to \$2,500.00 per violation and the suspension or revocation of his license, and the filing of an action to enforce this Order in the District Court which may impose penalties of up to \$10,000.00 per day for continued violation.

DATED this 26<sup>th</sup> day of May, 2004.

MERWIN U. STEWART, Commissioner  
UTAH DEPARTMENT OF INSURANCE

  
MARK E. KLEINFELD, Esq.

Administrative Law Judge  
Utah Insurance Department  
State Office Building, Room 3110  
Salt Lake City, Utah 84114  
Telephone (801) 538-3800

CERTIFICATE OF MAILING

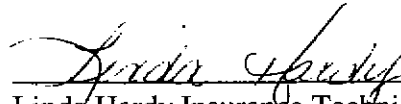
I do hereby certify that on this date I mailed, by regular mail, postage prepaid, a true and correct copy of the attached:

**STIPULATION  
&  
ORDER**

To the following:

*CLARANCE JOE SUSAETA  
5134 East Meadows Drive  
Park City, UT 84098*

DATED this 26 day of May, 2004

  
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Linda Hardy Insurance Technician  
Utah Department of Insurance  
State Office Building, Room 3110  
Salt Lake City, UT 84114-6901  
(801) 538-3800